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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,099	07/24/2001	Zuoxing Yu	CSA 2 0145	5530

7590 04/09/2003

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EXAMINER

AHMED, SHEEBA

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 04/09/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/912,099

Applicant(s)

YU ET AL.

Examiner

Sheeba Ahmed

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 March 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.

Claim(s) objected to: _____.

Claim(s) rejected: 21-29.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See attached sheet.

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1. The Amendment After Final submitted on March 26, 2003, (Paper No, 9) has been entered in the above-identified application however does not place the application in condition for allowance.

Applicants traverse the rejection of claims 21 and 24-29 under 35 U.S.C. 102(e) as being anticipated by Honda et al. (US 6,110,546) and submit that the decorative layer of Honda comprises a thermoplastic elastomer blend of an olefinic resin and an elastomer rubber whereas the present invention includes a decorative layer comprising a crosslinkable thermoplastic. Applicants assert that Honda discloses a TPO including an ethylene-alpha olefin copolymer rubber and not an at least partially crosslinked thermoplastic. However, the Examiner would like to point out that the claimed invention is simply directed to a partially crosslinked thermoplastic decorative layer wherein the thermoplastic is selected from a crosslinkable ethylene-a-olefin copolymer or a crosslinkable ethylene-styrene interpolymer and Honda et al. specifically disclose a decorative layer that comprises a **thermoplastic** elastomer such as an olefin thermoplastic elastomer(TPO) or a styrene thermoplastic elastomer (TPS). The TPO comprises an ethylene-alpha-olefin copolymer rubber wherein the ethylene-alpha-olefin copolymer rubber can have a partially-crosslinked structure and hence the limitations of the claimed invention have been met. Applicants further argue that Honda only discloses the use of peroxide crosslinking agents, which are not moisture crosslinkable. In response, the Examiner would like to point out that Honda only states peroxides as an example of possible crosslinking agents and hence the Examiner maintains that the thermoplastic elastomer of Honda is moisture crosslinkable.

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Applicants further traverse the rejection of claims 22 and 23 under 35 U.S.C. 103(a) as being unpatentable over Honda et al. (US 6,110,546) in view of Scott et al. (US 3,654,155) and submit that there is no motivation to combine the two references given that a silane crosslinking agent would provide no additional motivation to one seeking to improve stress crack resistance. However, in response to applicant's argument that there is no suggestion to combine the references, the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Honda et al. that the decorative layer may comprise a ethylene-octene copolymer which has been at least partially crosslinked but do not specifically state that ethylene-octene copolymer rubber used in the decorative layer is crosslinked with a silane compound. On the other hand, Scott et al. specifically teach that the crosslinking of olefin copolymer using a silane compound such that the crosslinking may be carried out in two stages and yields a product that has extremely high resistance to stress cracking and could be employed in extruded articles (Column 1, lines 54-65 and Column 5, lines 14-26) and hence it would have been obvious to one having ordinary skill in the art to crosslink the ethylene-octene copolymer disclosed by Honda et al. with a silane compound given that Scott et al. specifically teach that doing

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so yields a product that has extremely high resistance to stress cracking and could be employed in extruded articles.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheeba Ahmed whose telephone number is (703)305-0594. The examiner can normally be reached on Mondays and Thursdays from 8am to 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Thibodeau can be reached on (703)308-2367. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-5408 for regular communications and (703)305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-5665.



Sheeba Ahmed
April 7, 2003



Paul Thibodeau
Supervisory Patent Examiner
Technology Center 1700